LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

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FISCAL IMPACT STATEMENT

LS 6095 | **NOTE PREPARED:** Mar 5, 2004
BILL NUMBER: HB 1251 | **BILL AMENDED:** Mar 4, 2004

SUBJECT: Hoosier Rx Program; Pharmaceutical Issues.

FIRST AUTHOR: Rep. Becker | **BILL STATUS:** Enrolled
FIRST SPONSOR: Sen. Server

FUNDS AFFECTED: X GENERAL | **IMPACT:** State & Local
X DEDICATED
X FEDERAL

Summary of Legislation: *Donation or Return of Unused Drugs:* This bill allows a pharmacy or pharmacist to donate medication to certain health clinics. It establishes the Regional Drug Repository Program to distribute donated drugs. The bill requires a health facility to return certain unused medication to the pharmacy that dispensed the medication. It allows a pharmacy or pharmacist to accept returned medication from a hospice program. The bill also requires the Office of Medicaid Policy and Planning (OMPP) to review the process of returning unused medication.

Drug protocols: The bill expands protocols concerning the adjustment of a patient's drug regimen to nursing homes. It sets forth requirements for protocols used in nursing homes and requires quarterly review of protocols.

Indiana Prescription Drug Program: The bill further requires the Prescription Drug Advisory Committee to make recommendations concerning changes to the Indiana Prescription Drug Program's drug benefit. The bill also removes a provision prohibiting the Committee from recommending the use of funds from the Prescription Drug Account for a state prescription drug benefit if a federal program provides a similar benefit. It further extends the existence of the Prescription Drug Advisory Committee until December 31, 2006.

Repeal of Provider Reporting Requirements: The bill repeals a provision requiring a provider to report to OMPP any rebates, discounts, and other price concessions that the provider receives. It also makes a technical correction by repealing two different versions of a noncode provision and makes changes to the provisions.

Effective Date: Upon passage; July 1, 2004.

Explanation of State Expenditures: *Indiana Prescription Drug Program:* This bill would extend the expiration date for the Prescription Drug Advisory Committee by one year, to December 31, 2006. (The Committee's statutory authority expires on December 30, 2005, under current statute.) The Committee consists of 11 members appointed by the Governor and 4 nonvoting legislative members. Expenses incurred by the nonlegislative members of the Committee are to be paid from the Indiana Prescription Drug Account, funds for which are appropriated from the Tobacco Master Settlement Agreement Fund. Expenses of the 4 legislative members are to be paid from funds appropriated to the Legislative Council from the state General Fund. Committee expenses are estimated to fall within the amount allocated for legislative interim study committees of $9,000 annually.

The bill removes an existing provision that prohibits the Committee from recommending the use of funds from the Prescription Drug Account if there is a federal statute or program, other than a Medicaid waiver, that provides a similar benefit for low-income senior citizens. The Committee is required to make program design recommendations to coordinate the Indiana Prescription Drug Program (HoosierRx) with the recently enacted Medicare prescription drug benefit. The Committee is further charged with ensuring the program does not duplicate federal benefits. The Committee is to submit their recommended changes to the Governor and the Office of the Secretary of the Family and Social Services Administration before July 1, 2004, for program changes related to the Medicare drug discount card program which is scheduled to begin in June 2004. Committee recommendations are to be submitted before July 1, 2005, for the changes related to the Medicare Part D prescription drug benefit, which is effective January 2006.

The fiscal impact of this provision will ultimately depend upon the program design recommendations made by the Committee and subsequent administrative actions. The Indiana Prescription Drug Program is funded from the Indiana Tobacco Master Settlement Agreement Fund.

Drug protocols: Provisions in the bill establishing the use of drug regimen protocols for use in nursing facilities would have no fiscal impact on the state.

Donation or Return of Unused Drugs: The bill requires a health facility that possesses unused medication that meets the requirements of this bill to return the medication to the pharmacy that dispensed the medication. In addition, this bill requires a pharmacist to accept the returned medication. If the medication was originally paid for by Medicaid and meets the criteria established in this bill, the pharmacist is required to credit the state for the cost of the prescription drug.

This bill also allows the Board of Pharmacy to enter into a voluntary agreement with certain entities to serve as a regional drug repository. A repository may accept donated unadulterated drugs from certain entities. In addition, the repository shall redistribute drugs to nonprofit health clinics. This medication can be donated to a: (1) federally qualified health center, (2) rural health clinic, or (3) a nonprofit health clinic that meets certain guidelines. These clinics may experience reduced expenditures for medications to the extent that returned medications can be reused.

The Office of Medicaid Policy and Planning estimates the annual credit to Medicaid associated with returned medications to be approximately $1 M per year. State share of this amount would be about $380,000. This bill requires that: (1) a health facility return unused prescription drugs to the originating pharmacy, (2) the pharmacy accept the returned drugs, and (3) the pharmacy credit Medicaid if Medicaid paid for the drugs. This may increase the amount of drugs returned and credited to Medicaid. The total impact is contingent upon the amount of unused prescription drugs returned that were paid for by the state Medicaid program.

The bill requires the Office of Medicaid Policy and Planning to review the process for returning unused medication and report any information gathered during the investigation to the Health Finance Commission before October 1, 2004. This provision may be performed within the levels of resources available to the Office and the Health Finance Commission.

Repeal of Provider Reporting Requirements: This bill also repeals a provision intended to collect information on rebates and discounts that providers may be receiving on goods and services that are supplied to Medicaid recipients. The provision requires quarterly reporting and applies to all Medicaid providers. The bill may result in some administrative savings related to repeal of the requirement to collect the information from all providers. Any savings realized would occur within the existing available resources of the Office of Medicaid Policy and Planning which would be allowed to be redirected to other activities in the Office.

Medicaid is a joint federal-state program. Administrative expenditures are matched by the federal government at 50% federal and 50% state dollars. Direct service expenditures are matched at approximately 62% federal and 38% state dollars.

Explanation of State Revenues: See *Explanation of State Expenditures* under *"Donation or Return of Unused Drugs".*

Explanation of Local Expenditures: See *Explanation of State Expenditures* under *"Donation or Return of Unused Drugs".* This bill potentially reduces clinic expenditures for prescription drugs.

State Agencies Affected: Family and Social Services Administration, HoosierRx Program, and the Office of Medicaid Policy and Planning.

Local Agencies Affected: Local health clinics.

Information Sources: Melanie Bella, Assistant Secretary, and Marc Shirley, Program Director, Pharmacy, Office of Medicaid Policy and Planning.

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